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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,973	04/16/2004	Gregory E. Niles	18602-08906 (P3331US1)	1031
61520	7590	10/15/2007	EXAMINER	
APPLE/FENWICK SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			REPKO, JASON MICHAEL	
			ART UNIT	PAPER NUMBER
			2628	
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			10/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/826,973	Applicant(s) NILES ET AL.	
	Examiner Jason M. Repko	Art Unit 2628	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 September 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-4, 9, 10, 12-18, 71, 74, 75, 77, 78, 94-96, 98-104, 106 and 107.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


ULKA CHAUHAN
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed 27 September 2007 have been fully considered but they are not persuasive.

With regard to the remarks directed to the rejection of claim 1, it is noted that the features upon which applicant relies (i.e., an image processing effect) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, the paragraph that Applicant cites does not fully support the interpretation that a filter must be an image processing effect: "In one embodiment, recent advancements in the OpenGL standard, such as pixel shaders, are used to accelerate various image processing tasks (such as, for example, applying filters) and enable custom blending" (paragraph [1627] of the publication). Specifically, this paragraph seems to lead to the conclusion that image-processing tasks comprise filters, but does not support the interpretation that the claimed filters must be image-processing tasks, as Applicant alleges.

With regard to the remarks directed to the rejection of claims 71 and 94, Applicant alleges U.S. Patent No. 6,714,201 to Grinstein does not teach receiving the claimed two user inputs. With respect to the limitation "receiving a first user input, the first user input specifying a second parameter of the motion behavior," Grinstein's "Wind dialog box" parameters specify the Sway motion parameters (lines 50-53 of column 32; lines 60-67 of column 49). No distinction between direct and indirect specification of parameters is found in the claim language. The characterization that Applicant relies on is problematic for at least the reason that many levels of indirection are inherent to the operation of a computer system, making it difficult to draw clear distinctions between direct and indirect input unless the input is unambiguously defined. The characterization of a specification of a value as direct or indirect depends on which value in the sequence of operations one chooses to define as "the input." In claims 71 and 94, the user input is not defined in a manner to exclude the Examiner's interpretation that the user input provided to the "Wind" dialog box can be interpreted as specifying the "Sway" parameters. Analogous reasoning applies to Applicant's remarks directed to the portion of the rejection concerning the limitation "receiving a second user input...the second parameter behavior indicating how to change a value of the second parameter over time."

With regard to the remarks directed to the rejection of claim 88, Applicant is correct in stating that the boundary behaviors are required to simulate friction, but Applicant is incorrect in stating that "[friction] cannot be simulated for an object that is moving in an arbitrary (non-boundary behavior) way." The example in section 6.2.8.5 (column 38) illustrates using the boundary behaviors to simulate a ball moving according to the "wander" non-boundary behavior, and the "reflect" boundary behavior, which causes the ball to "bounce (or reflect) off the room surface." By adding setting the optional "gain" and "bias" parameters of the "reflect" boundary behavior (lines 30-37 of column 35), the normal and tangential components of bouncing ball interaction can be adjusted to simulate "effects of gain or loss of momentum" due to friction. Therefore, friction can be simulated for a ball that is moving according to a "wander" non-boundary behavior. Accordingly, Grinstein teaches "a Drag behavior, which changes a position of the object based on a simulated friction" as recited in claim 88.

With regard to the remarks directed to the rejection of claim 86, Applicant alleges that the Unuma reference teaches, "even though the motion path is straight, the rotation is changed." To the contrary, the rotation of a person object in Fig. 16 occurs prior to but not during the displacement of the person object along a straight motion path toward the transit point (paragraph 131: "Since the object 1 is facing to the passage point 401 as a result of the operation conducted by the moving direction controller 82, the object 1 is moved or displaced toward the transit point 401."). Therefore, Unuma teaches the rotation of the object is not changed if the motion path of the object is straight.

With regard to the remarks directed to the rejection of claim 92, the Land reference was relied upon for the teaching of displaying objects in random order in paragraph 112. Applicant acknowledges Land teaches random display of media objects. Although Land accomplishes this using the playback and start command framework described in paragraph 112, the rejection of claim 92 is based on a combination of Land, Miller and Altman. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In this case, the randomize behavior would have been obvious to one of ordinary skill in the art at the time of the invention in view of the effect disclosed by Land and the animation system disclosed by the combination of Miller and Altman.

The amendment canceling claims 87 and 89-90 will be entered to simplify matters for purposes of appeal. All pending claims would be rejected according to the rejections presented in the Office Action dated 27 July 2007.